

and Remarks, and favorable consideration, are respectfully solicited pursuant to 37 C.F.R. §1.116.

Claims 1, 2 and 4 through 11 are pending in this application, of which claims 5 through 10 stand withdrawn from consideration pursuant to the provisions of 37 C.F.R. §1.142(b). Accordingly, claims 1, 2, 4 and 11 are active.

Claims 1 and 2 have been amended, claim 3 cancelled and new claim 11 added. Care has been exercised to avoid the introduction of new matter. Indeed, adequate descriptive support for the present invention should be apparent throughout the originally disclosure, notably the depicted embodiments and related discussion thereof in the written description of the specification. Applicant would point out the pattern which constitutes a positioning mark recited in claim 1 is identified by reference numeral 30 appearing in Fig. 17. Applicant submits that the present Amendment does not generate any new matter issue.

A clean copy amended claims 1 and 2, and of new claim 11, appear in the Appendix hereto.

Claims 1 through 4 were rejected under 35 U.S.C. §103 for obviousness predicated upon Shimizu et al.

In the statement of the rejection, the Examiner adhered to the position that the dummy patterning cell (DPC) disclosed by Shimizu et al. is employed as a positioning mark. This rejection is traversed as factually and legally erroneous.

Initially, Applicant submits that the Examiner has merely identified a mask for an area, not a positioning mark, in the structure disclosed by Shimizu et al.

At any rate, in order to expedite prosecution, claims 1 and 2 have been amended to clarify that the first and second regions are adjacent, that the trench isolation regions are patterns within the first and second regions and extend continuously in one direction, while the dummy trench patterns have a pattern which extends in a different direction from that of the trench isolation patterns. This dummy trench pattern constitutes a positioning mark 30 (as illustrated in Fig. 17). This structure is neither disclosed nor suggested by Shimizu et al.

Further, Applicant would separately argue the patentability of claim 2 which recites that the first and second regions are arranged in the first direction and the dummy region extends in a direction along the first and second regions. This feature is also neither disclosed nor suggested by Shimizu et al.

There is **no** apparent factual basis of record upon which to predicate the conclusion that one having ordinary skill in the art would have been realistically led to dramatically deviate from the structure disclosed by Shimizu et al. to arrive at the claimed invention. *In re Lee*, ___F.3d___, 61 USPQ2d 1430. Applicant, therefore, submits that the imposed rejection of claims 1, 2 and 4

1, 2 and 4 under 35 U.S.C. §103 for obviousness predicated upon Shimizu et al. is not factually or legally viable and, hence, solicits withdrawal thereof.

New Claim 11

New claim 11 is free of Shimizu et al. by virtue of its dependence upon independent claim 1, the patentability of which has been argued supra. Applicant would further separately argue the patentability of claim 11 based on the requirement for the dummy trench isolation pattern to extend in a vertical direction with respect to the direction in which the trench isolation patterns extend in the first and second regions.

Based upon the foregoing, it should be apparent that the imposed rejection has been overcome and that all active claims are in condition for immediate allowance. Favorable consideration is, therefore, respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including

extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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